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A Special Leave Petition to the Supreme Court against an order passed by the National Consumer Disputes Redressal Commission in its appellate jurisdiction is not maintainable.

The Supreme Court of India (“**Supreme Court**”) has in *M/s. Universal Sompo General Insurance Company Limited v. Suresh Chand Jain & Anr.*¹ held that a petition filed before the Supreme Court under Article 136 of the Constitution of India (“**Constitution**”) seeking special leave to appeal against an order passed by the National Consumer Disputes Redressal Commission (“**NCDRC**”) in its appellate jurisdiction is not maintainable.

Brief Facts

Universal Sompo General Insurance Company Limited (“**Insurer**”) issued 2 (two) insurance policies covering fire and theft (“**Insurance Policy**”) in favour of Mr. Suresh Chand Jain (“**Suresh Jain**”) through Allahabad Bank (“**Bank**”) (acting as an intermediary of the Insurer).

Suresh Jain raised a claim for fire and theft (after a theft and fire happened on his premises) under the Insurance Policy. The Insurer rejected the claim made by Suresh Jain.

A consumer complaint was filed by Suresh Jain against the Insurer and the Bank under Section 17 of the Consumer Protection Act, 1986 (“**1986 Act**”) before the State Consumer Disputes Redressal Commission, Delhi (“**SCDRC**”) *inter alia* seeking that his claim be processed (“**Complaint**”). By an order dated March 18, 2016, the SCDRC partly allowed the Complaint and directed the Insurer and Bank to jointly and severally process the claim and pay compensation to Suresh Jain.

The Insurer preferred a first appeal before the NCDRC under Section 19 of the 1986 Act against the order dated March 18, 2016. By its order dated January 16, 2023, the NCDRC dismissed the first appeal and upheld the order passed by the SCDRC.

The Insurer filed a special leave petition under Article 136 of the Constitution seeking leave to appeal against NCDRC’s order of dismissal.

¹ Special Leave Petition (Civil) No. 5263 of 2023

Issue

Whether a petition seeking special leave to appeal before the Supreme Court under Article 136 of the Constitution against an order passed by the NCDRC in its appellate jurisdiction is maintainable?

Supreme Court's decision

The Supreme Court dismissed the special leave petition and *inter alia* held as follows:

1. The remedy of appeal to the Supreme Court against an order of the NCDRC under both the 1986 Act and Consumer Protection Act, 2019 is available only against orders passed by the NCDRC in its original jurisdiction or as the court of first instance.
2. No further appeal lies before the Supreme Court against orders passed by the NCDRC in exercise of its appellate or revisional jurisdiction.
3. The jurisdiction of the Supreme Court to grant special leave to appeal can only be invoked in very exceptional circumstances. Thus, when a party has an alternative remedy to approach a competent High Court under Articles 226 or 227 of the Constitution, the Supreme Court should not entertain a petition seeking special leave to appeal.
4. Orders passed by the NCDRC in its appellate jurisdiction can be challenged before the jurisdictional High Court by way of a writ petition under Article 226 of the Constitution or by invoking supervisory jurisdiction of the High Court under Article 227 of the Constitution. It would always be open to a party to thereafter seek special leave to appeal before the Supreme Court under Article 136 of the Constitution against the decision of the High Court.

Conclusion

The Supreme Court has clarified the contours of Article 136 of the Constitution in the context of consumer disputes and orders of the NCDRC. Importantly, the Supreme Court has held that its findings in this judgment (which was passed in relation to the provisions of the 1986 Act) would equally apply to cases filed under the Consumer Protection Act, 2019.

Consumer Protection Practice

JSA has a vast experience on matters relating to consumer protection laws and related matters. We have advised clients (both domestic and global), across sectors and industries on complex queries around consumer protection laws and rules thereunder, and its interplay with other related legislations, like data privacy and exchange control laws.

We have developed a leading consumer protection practise supported by a group of extraordinarily gifted and experienced solicitors with knowledge of the essential consumer law sector. Our team has experience in managing complex consumer cases at the national level in India. We are renowned for our proficiency in successfully defending the interests of our clients.

Our key areas of advice include:

- Analysis of business activities from consumer protection laws perspective including import regulations and foreign trade policy of India;
- Advise on registration and licensing requirements;
- Advising on e-commerce rules;
- Advise on single brand retail and multi-brand retail from foreign exchange laws perspective;
- Advise on product liability issues and compliances;
- Advising on standards issued by the BIS and quality control orders including advisory in relation to inspection and enquiries by authorities;
- Advising on advertisement, packaging and labelling requirements.

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